IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINETH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 12748 of 2003

Between:

P. Hampi reddy s/o Sri P. Somi reddy
r/o Nancherla Village, Chippagiri Mandal,
Kurnool District

..... PETITIONER

AND

1 The Revenue Divisional Officer, Adoni, Kurnool (Dist).
2 The Mandal Revenue Officer, Chippagiri, Kurnool (Dist).
3 The S.I Of Police, Chippagiri Police Station, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction declaring the action of the Respondents in not conducting 5-A enquiry as directed by this Honourable Court in WP No. 8642/1985 dated 07.9.1988 and also in taking possession of the lands in S. No. 71K of Nancherla Village admeasuring an extent of Ac. 2-60 cents forcibly in highly illegal, arbitary and violative of the Articles 14, 19 (1) (G), 21 and 300-A of the Constitution of India and consequently direct the Respondents not to evict the petitioner from his land.

Counsel for the Petitioner: MR.B.PURUSHOTHAMA REDDY

Counsel for the Respondent Nos.1 to 3: G.P. for Land Acquisition

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12748 OF 2003

ORDER:

The petitioner is a resident of Nancherla village of Chippagiri Mandal in Kurnool District. He claims to be the owner of land admeasuring Acs.14.27 in Survey No.71K of the said village. He alleges that respondents 1 and 2 along with local people came to the petitioner's land on 23.06.2003 to take possession of the land. The petitioner also states that when the land admeasuring Acs.2.60 was sought to be acquired, he filed the writ petition being W.P.No.8642 of 1985 and this Court by order dated 07.09.1988 quashed the notification directing the authorities to take enquiry under Section 5A of the Land Acquisition Act, 1894 (the Act, for brevity). The petitioner contends that without taking enquiry under Section 5-A of the Act, respondents are trying to dispossess the petitioner. Therefore, he filed the present writ petition declaring the action of the respondents in not conducting enquiry under Section 5-A of the Act as per the judgment of this Court is illegal and arbitrary.

After receiving notice, counter affidavit is filed on behalf of respondents 1 and 2 stating as follows.

.. it is submitted that the land in Sy.No.71-K measuring an extent of Acs.2.60 was acquired by the then District Social Welfare Officer, Kurnool for providing House sites to the weaker section (Harijans) of Nancharla village and passed Award on 23.03.1977. The possession of land was taken and pattas were also issued to the beneficiaries. But the beneficiaries had not occupied the sites allotted. The Hon'ble High Court in its order in W.P.No.8642/1985 dt. 07.09.1988 quashed "the direction under section 17(4) to dispense with the enquiry under section 5A of the Act as also the declaration under section 6 of the L.A.Act. Since then the orders of the Hon'ble court no action is initiated to evict the

petitioner from his land in S.No.71K. The said land is under the continuous possession and enjoyment of the petitioner without any interference by the respondents. Even though the authorities concerned did not initiate any action to evict the petitioner from his land. He moved the Hon'ble Court with a *mala fide* intention of defaming the respondents and obtained orders in W.P.No.12748 of 2003 dated 02.07.2003 that the petitioner should not be evicted.

In the counter affidavit, the allegation of the petitioner that the respondents tried to dispossess him is denied. Having regard to the above counter averments, this Court is convinced that the petitioner filed the writ petition on mere apprehension. If the possession was not taken from the petitioner, pursuant to award passed on 23.03.1977, it is for the respondents to take appropriate action in accordance with the judgment of this Court in W.P.No.8642 of 1985 dated 07.09.1988. They cannot, however, be prohibited from initiating action under the Act.

The writ petition, with the above observations, is dismissed.

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(V.V.S.RAO,J)

29.10.2004.

pln

To

1. The Revenue Divisional Officer, Adoni, Kurnool (Dt.)
2. The Mandal Revenue Officer, Chippagiri, Kurnool (Dist).
3. The S.I. of Police, Chippagiri Police Station, Kurnool Dist.
4. 2 CCs to the G.P. for Land Acquisition, High Court Buildings, Hyderabad (OUT).
5. 2 CD copies.